

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Apr 14 9 33 AM '00

WPS Energy Services, Inc. )

CHIEF CLERK'S OFFICE

)  
Application for Certificate of Service )  
Authority under Section 16-115 of )  
the Public Utilities Act. )

Docket No. 00-0199

**COMMONWEALTH EDISON COMPANY'S**  
**COMMENTS ON APPLICATION**

Commonwealth Edison Company ("ComEd"), by its attorneys, Hopkins & Sutter, submits these comments on the application of WPS Energy Services, Inc. ("WPS-ESI") for a Certificate of Service Authority ("Application").

ComEd takes no position on the application of WPS-ESI. However, the application calls upon the Commission to interpret Section 16-115(d)(5) of the Public Utilities Act, raising an important policy issue in Illinois' electric restructuring. ComEd urges the Commission to consider the methods of competition in the restructured environment. As an Illinois utility, ComEd also comments on certain facts that may bear on the Commission's application of the statute.

**I. The Purpose of Section 16-115(d)(5)**

The apparent purpose of Section 16-115(d)(5) of the Public Utilities Act is to promote the development of an efficient regional competitive market and to avoid unfairness to Illinois utilities, their customers, and suppliers. The Illinois Legislature expected and intended that, in the future, the marketplace for electric service would cross state boundaries, creating a vigorous regional competitive market. Although it is expected that most or all states will at some point open retail electric competition, not every state will do so as early as Illinois. The Legislature determined that the best way to address this transition was through reciprocity requirements.

Thus, the Legislature recognized that it would be unfair and inefficient for competition to be a one-way street. Illinois utilities could be subject to competition for their own customers, but have no reciprocal channels by which to compete out of state. An out-of-state utility that can compete in Illinois, while maintaining its monopoly power in its home market, would enjoy a significant and unfair advantage and increase the possibility of cross-subsidization. As the Legislature recognized, it is not in the interest of the State of Illinois as a whole to allow its public utilities to be subjected to unfair competition.

There is, of course, more than one way to compete for retail customers in another state. A utility – or any supplier, for that matter – may serve customers near its service territory by direct transmission of electricity from the utility’s own resources. Or, the supplier can purchase wholesale power in the remote state (or elsewhere) and resell it to out-of-state customers. This second model has become popular in newly restructured areas. WPS-ESI, an affiliate of Wisconsin Public Service Corporation, a Wisconsin utility (“WPSC”), provides an example. WPS-ESI has regional offices in Illinois, Michigan, Maine, and Ohio. (Appl. ¶ 2). However, WPS-ESI will not use generation or transmission facilities that it owns (Appl. ¶ 18), and does not intend to own or install any generation in Illinois. (Appl. ¶ 5). Like other ARES, WPS-ESI will purchase power that can be physically and economically resold in Illinois.

Accordingly, an analysis of whether power “can be physically and economically delivered” by an Illinois utility to an out-of-state utility’s service territory need not stop with a simple look at the price of a utility’s own generation and available transmission capacity. Each of the analyses WPS-ESI sets forth in Attachment C to its Application assume that the power that an Illinois utility would sell to the

customers of WPSC, the public utility affiliate of WPS-ESI, would be generated by ComEd. That would not necessarily be the case; it could be economically and physically possible to compete by delivered and reselling power purchased or generated elsewhere.

The "market index comparison" on pages 7-8 of Attachment C to WPS-ESI's Application provides an example. WPS-ESI's comparison is based on published average prices within MAIN, the region in which both ComEd and WPSC are located. An Illinois company competing with WPSC in its service territory could purchase the power within WPSC's portion of the MAIN region. WPS-ESI's analysis assumes that the power purchased would be ComEd-generated, and the seller would need to pay transmission rates to reach WPSC's territory. However, if an Illinois company purchased or generated the power within WPSC's territory, it would pay WPSC for delivery, but not for transmission into the WPSC service area from the ComEd system to the WPSC system. Using WPS-ESI's numbers from its calculation in Table II, an Illinois company could purchase power at \$25.40 per megawatt-hour and pay for delivery services at \$6.60 per megawatt-hour for a total of \$32.00 per megawatt-hour – less than WPSC's rates. (WPS-ESI Appl., Attachment C, Table II).

Similarly, WPS-ESI's conclusion that it is physically impossible for Illinois companies to supply WPSC customers is based on the assumption that the power would be actually transmitted from Illinois to WPSC's service territory. WPSC has not analyzed the possibility of an Illinois company buying wholesale power from another source and reselling it, or transmitting power from Illinois during those times transmission service is available into WPSC and backing that power up with power from sources within eastern Wisconsin during times when transmission is unavailable.

## **II. WPSC's Comments on Transmission Constraints**

ComEd also has two comments with regard to WPSC's analysis of physical capacity between Illinois and WPSC's service territory. First, the lack of availability of transmission capacity is in part due to WPSC's own reservation of that capacity. (See OASIS Reservation Nos. 484995, 484996, 484997, 484998, and 485000). ComEd believes that reservations by WPSC should not count in analyzing capacity restrictions. These reservations show that physical capacity may indeed be available. If an Illinois competitor were to recruit Wisconsin customers, the Illinois company could physically use the transmission capacity that WPSC would no longer require: if an Illinois company were to serve WPSC load, WPSC may have no use for the transmission service it reserved. Second, in fairness WPSC should not be able to buy up all the available transmission capacity and argue that there is physically none left for potential competitors.

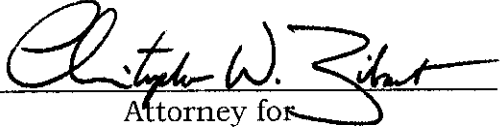
Second, ComEd wishes to comment on a factual issue that WPS-ESI raises on page 11 of Attachment C to its Application. WPS-ESI states that ComEd's Lockport-to-Lombard transmission upgrade, which will remove an important barrier to north-south transfer capabilities into Wisconsin, will be completed by the summer of 2001. In fact, as ComEd has previously informed the Commission, the current estimated completion date is in June 2000. WPS-ESI recognizes that its analysis of available transmission capacity between ComEd and WPSC's service territories, to the extent it is relevant here, should be reevaluated in light of this project.

## **III. Conclusion**

ComEd appreciates the opportunity to add its comments in this docket. ComEd takes no position on the merits of WPS-ESI's application because it has reached no firm conclusion on whether the application, on its face, meets Section 16-

115(d)(5) of the Public Utilities Act as properly interpreted. However, ComEd asks that the Commission consider these comments when applying Section 16-115(d)(5) to this Application.

Dated: April 13, 2000

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**NOTICE OF FILING**

TO: See attached service list

PLEASE TAKE NOTICE that on this date we have filed with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, the original and two copies of Commonwealth Edison Company's Comments on Application.

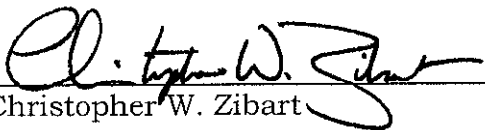
DATED: April 13, 2000

By:   
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**CERTIFICATE OF SERVICE**

I, Christopher W. Zibart, hereby certify that on this day I served Commonwealth Edison Company's Comments on Application upon the persons on the attached service list, served as indicated, on this 13<sup>th</sup> day of April, 2000.

  
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Christopher W. Zibart

**ICC Docket No. 00-0199**  
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